



Philip L. Browning  
Director

COUNTY OF LOS ANGELES

## Child Support Services Department



October 17, 2003

To: Each Supervisor

From: PHILIP L. BROWNING  
Director

### PROTEST PANEL – FISCAL AGENT CONTRACT

The Child Support Services Department (CSSD) released a Request for Proposals for Fiscal Agent, Customer Service and Court Testimony Services on May 12, 2003. Four proposals were received by the due date of July 28, 2003. Upon review of the proposal submitted by Maximus, Inc. it was found that it did not meet the minimum mandatory requirements for bidding. A notification of this determination and its basis was sent to Maximus on August 29, 2003.

A Protest Panel was convened on October 2, 2003 in response to Maximus' protest of the Child Support Services Department's determination that they did not meet the minimum requirements necessary to compete for the award of the Fiscal Agent contract. The panel was comprised of representatives from the Chief Administrative Office, Fire Department, and Department of Public Works.

The Protest Panel's report is attached. In brief, the panel concluded that:

- Maximus did not pass the Minimum Mandatory Requirements and, on that basis, did not merit further examination or evaluation to determine whether it should be awarded the contract under the terms and conditions of the RFP.
- CSSD followed all of the required procedures outlined in the RFP and appears to have a reasonable basis for its determination that Maximus did not pass the Minimum Mandatory Requirements for bidding on the Fiscal Agent contract.

The Department also responded separately to Maximus' Public Records request for documents and will be providing additional requested documents upon filing of a Board letter recommending a new contract. I anticipate filing the Board letter for an agenda in early November.

Each Supervisor  
October 17, 2003  
Page 2

If you have any questions, or need additional information, please contact me at (323) 889-3340 or Penny Van Bogaert at (323) 889-2981.

PLB:PVB:crd

**Attachment**

c:     Board Deputies  
       David E. Janssen, Chief Administrative Officer  
       Lloyd A. Pellman, County Counsel  
       Lane Brown, County Counsel  
       Debbie Lizarri, Chief Administrative Office  
       Gevork Simdjian, Chief Administrative Office  
       James Blunt, Chief Administrative Office

## REPORT OF PROTEST PANEL

### REQUEST FOR PROPOSALS FOR FISCAL AGENT, CUSTOMER SERVICE, COURT TESTIMONY AND RELATED SERVICES FOR CHILD SUPPORT SERVICES DEPARTMENT

The Child Support Services Department (CSSD) released a Request for Proposals for Fiscal Agent, Customer Service, Court Testimony and Related Services (RFP) on May 12, 2003. Proposals were timely submitted on behalf of ACS Local Solutions, Maximus, Inc., CDS Net and Dyntek. ACS Local Solutions is the current provider. By letter dated August 29, 2003, the CSSD notified Maximus, Inc. that CSSD had been unable to verify that Maximus Inc.'s proposal met the minimum requirements of having provided at least five years of experience of similar fiscal agent, customer service, court testimony and related services. Additionally, CSSD stated that Maximus' proposed project manager, Mr. Rodney Kyles, did not meet the minimum requirement of five-years-experience in providing the services described in the RFP. CSSD also stated that it would be unable to consider Maximus' proposal in any further evaluation process. In a letter dated September 8, 2003, Maximus Inc. requested, among other things, an opportunity for Administrative Review under Section 1.14 of the RFP. A Protest Panel (Panel) was formed to enable Maximus, Inc. to exercise its right to Administrative Review.

The Panel members were: Raymond Low, Chief Internal Auditor, Public Works Department; Michael D. McHugh, Facilities Project Manager, Fire Department; and Eva Snider, Assistant Division Chief, Chief Administrative Office. This Panel convened on October 2, 2003, at 3:00 p.m., at CSSD's Headquarters located at 5770 South Eastern Avenue, City of Commerce, California. This is a report of the Panel's findings and recommendations.

Principal Deputy County Counsel, Liz Cortez, and Deputy County Counsel, William C. Sias, represented the Panel.

Maximus's presentation was made by its attorney, Kevin Collins of Weston Henshoof Rochefort Rubalcava & MacCuish, LLP and Mr. Craig Gorsline of Maximus, Inc. Mr. Tom Flintoff of Rose & Kindel also appeared on behalf of Maximus.

CSSD's response was made by Penny Van Bogaert, Administrative Deputy Director. Also in attendance for CSSD was Elisha Gardner. Principal Deputy County Counsel, Lane Brown, represented CSSD.

### ISSUES PRESENTED FOR PANEL'S REVIEW.

1. Whether the facts support CSSD's determination that Maximus, Inc. did not pass Minimum Mandatory Requirement 1.4.1 that the "[p]roposer must have five years documented experience in providing similar fiscal agent, customer service, court testimony, and related service." (See RFP at page 2.)

2. Whether the facts support CSSD's determination that Maximus Inc. did not pass Minimum Mandatory Requirement 1.4.3 that the "[p]roposer must have a Contract Manager with at least five years of experience providing the above services who will oversee the contract operations." (See RFP at page 2.)

### SUMMARY OF THE PANEL'S FINDINGS

Based on the information provided by Maximus, Inc. and CSSD at the October 2nd hearing, the discussion at the hearing, a review of the RFP, the Maximus Inc. Business Proposal dated July 28, 2003, the documents submitted by the CSSD for the hearing, and such other documents which were submitted by the parties for the Panel's review and consideration, the Panel reached a consensus on the following findings:

1. The facts do not support CSSD's determination that Maximus, Inc. did not pass Minimum Mandatory Requirement 1.4.1 that the "[p]roposer must have five years documented experience in providing similar fiscal agent, customer service, court testimony, and related service." (See RFP at page 2.)
2. The facts support CSSD's determination that Maximus did not pass Minimum Mandatory Requirement 1.4.3 that the "[p]roposer must have a Contract Manager with at least five years of experience providing the above services who will oversee the contract operations." (See RFP at page 2.)

### SUMMARY OF RELEVANT ISSUES RAISED BY MAXIMUS INC.

Maximus, Inc. by its letter of September 8, 2003, requested Administrative Review of CSSD's determination that it did not pass certain Minimum Mandatory Requirements. In its written request, Maximus indicated that it was troubled by CSSD's conclusion and that this conclusion was contradicted by information in Maximus' proposal. Maximus challenged CSSD's claim that the telephone number provided for Maximus's reference, a subsidiary in the province of British Columbia, Canada, had been disconnected. Maximus disputed CSSD's reliance on its inability to contact Maximus' reference as the basis for disqualification under the pass/fail system. Further, Maximus criticized CSSD's subsequent effort to contact Maximus' reference on the grounds that CSSD did not request clarification or additional information directly from Maximus before rejecting the proposal. Maximus also argued that CSSD initially reported that its investigation and disqualification of Maximus' proposal could not be reviewed in apparent contradiction of Section 1.14 which expressly provided for Administrative Review. Finally, Maximus argued that its proposed contract price of \$13,550,337, for a three-year period, had to be compared to the \$24,291,000 paid to the current contract provider for the previous three-year period and that the significant cost differential alone justified reevaluation of its Proposal.

Maximus argued that its Proposal was never evaluated on a level playing field. Maximus argued that CSSD was overly technical in its assessment of whether or not its Proposal satisfied the

pass/fail requirements as identified in the RFP. Maximus concluded its arguments with the proposition that it wanted a renewed opportunity to have its Proposal considered on the merits.

As a threshold issue, the Panel has determined that the only matters properly before the Panel arise from the application of the pass/fail criteria regarding the Minimum Mandatory Requirements described above. In light of the Panel's determination of the issues that may be properly reviewed and considered, the Panel does not review nor make any findings on other contentions or factual disputes that Maximus raised in its letter of September 8, 2003, which requested Administrative Review under Section 1.14 of the RFP.

#### MAXIMUS ISSUES AND CSSD'S RESPONSES:

1. Maximus contends that its proposal contained sufficient information to pass Minimum Mandatory Requirement 1.4.1 that the "[p]roposer must have five years documented experience in providing similar fiscal agent, customer service, court testimony, and related service." (See RFP at page 2.)

Maximus argued that Themis, its Canadian subsidiary, represented 15 years of experience providing the full range of services identified by the RFP. Maximus disputed CSSD's claim that it was unable to reach Themis' main telephone number. CSSD described its efforts to contact Themis and to confirm the telephone number which did not include any direct contact with Maximus regarding CSSD's inability to contact Themis. The Panel found that the facts show that Themis could have qualified Maximus as a bona fide prospect if its organizational experience could have been verified.

#### Panel Finding

The Panel finds that the facts do not support CSSD's determination that Maximus did not pass Minimum Mandatory Requirement 1.4.1 which required that the "[p]roposer must have five years documented experience in providing similar fiscal agent, customer service, court testimony, and related service."

2. Maximus contends that its proposal contained sufficient information to support a finding that it passed Minimum Mandatory Requirement 1.4.3 that the "[p]roposer must have a Contract Manager with at least five years of experience providing the above services who will oversee the contract operations." (See RFP at page 2.)

#### Panel Finding

Maximus argued that Mr. Rodney Kyles, the proposed Project Manager, had the required five-years-experience. Maximus submitted Mr. Kyles resume which indicated more than 12 years of professional experience and which Maximus argued was similar to the areas described in the RFP. (See Maximus binder, Tab B, page A1-8.) CSSD argued that Mr. Kyles did not have

nt By: LACO PUBLIC WORKS;

five-years of similar experience as a fiscal agent, that the work experience could not be accumulated in different jobs, and that certain work experience was not comparable to the services described in the RFP. The Panel found that Maximus' argument that Mr. Kyle's resume demonstrated the required work experience and, on that basis, passed the Minimum Mandatory Requirement 1.4.3 is not supported by the facts.

#### Panel Finding

The Panel finds that the facts support CSSD's determination that Maximus did not pass Minimum Mandatory Requirement 1.4.3 that the "[p]roposer must have a Contract Manager with at least five years of experience providing the above services who will oversee the contract operations." (See RFP at page 2.)

#### CONCLUSION

The Panel finds that Maximus did not pass the Mandatory Minimum Requirements and, on that basis, did not merit further examination or evaluation to determine whether it should be awarded the contract under the terms and conditions of the RFP.

#### RECOMMENDATION

The Panel finds that CSSD followed all of the required procedures outlined in the RFP and appears to have a reasonable basis for its determination that Maximus did not pass the Minimum Mandatory Requirements on the basis of its Request for Proposals for Fiscal Agent, Customer Service, Court Testimony and Related Services Business Proposal, dated July 28, 2003.

Dated: 10/15/03

Raymond Low  
RAYMOND LOW

Signed on behalf of the Protest Panel with the concurrence of Eva Snider and Michael McHugh.